



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|----------------------------------|------------------|
| 10/738,930 | 12/17/2003 | Steven E. Lenda | CFC-124-A | 8474 |
| 22825 7590 01/17/2007 WILLIAM M HANLON, JR YOUNG & BASILE, PC 3001 WEST BIG BEAVER ROAD SUITE 624 TROY, MI 48084-3107 | | | EXAMINER RUDDOCK, ULA CORINNA | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1771 | |
| SHORTENED STATUTORY PERIOD OF RESPONSE | | MAIL DATE | DELIVERY MODE | |
| 3 MONTHS | | 01/17/2007 | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/738,930

Applicant(s)

LEND A ET AL.

Examiner

Ula C. Ruddock

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 1-12 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 is/are allowed.
- 6) ☒ Claim(s) 14, 15, 17-21 and 23 is/are rejected.
- 7) ☒ Claim(s) 16, 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Examiner has carefully considered Applicant's amendments and accompanying remarks filed October 5, 2006. In view of Applicant's response, the rejections in view of Doerfling (US 4,078,100), Klaff (US 4,608,298), and Potts (US 5,149,576) have been overcome.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

3. Claims 20 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 20 and 21 depend upon claim 14 which is written in closed language (i.e. consisting of). Therefore, these claims, which add an additional material to the laminate, are indefinite.

Claim Rejections - 35 USC § 103

4. Claims 14, 15, 17, 18, 19, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tilton et al. (US 2003/0008581) in view of Thompson et al. (US 5,298,694). Tilton et al. disclose a liner used to insulate a vehicle door comprising a lofty pad of fibrous material (abstract). The lofty pad material can comprise synthetic fibers including polyester fibers, polyethylene fibers, polypropylene fibers, natural fibers, and any mixtures thereof [0044]. The liner as seen in Figures 3 and 4 comprises a facing material which includes a scrim, which can comprise glass fibers or polyester fibers [0041]. It is the Examiner's position that glass fibers are

hydrophobic. Tilton et al. disclose the claimed invention except for the specific teaching that the scrim is nonwoven.

Thompson et al. disclose an acoustical insulating web and a method for attenuating sound waves comprising a laminate of a nonwoven insulation web comprising thermoplastic fibers and a scrim layer. The laminate is adapted to be applied to the inner panel of a vehicle door (abstract). The nonwoven web comprises thermoplastic fibers and the scrim is a spunbond nonwoven scrim material, which will promote the integrity of the laminate (col 7, ln 41-46). It would have been obvious to one having ordinary skill in the art to have made the scrim of Tilton be a spunbond nonwoven, as disclosed by Thompson, motivated by the desire to create a scrim that has cheaper processing costs and to increase the structural integrity of the laminate.

Regarding claim 18, Tilton et al. and Thompson et al. disclose the claimed invention except for the teaching that the first layer has an air permeability greater than zero. While Tilton et al. and Thompson et al. fails to disclose the claimed air permeability, it is reasonable to presume that said air permeability property is inherent to the Tilton et al. and Thompson et al. invention. Support for said presumption is found in the use of like materials (i.e. a hydrophobic, spunbonded scrim and a lofty fibrous pad composed of synthetic and natural fibers). The burden is upon Applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594. In addition, the presently claimed property of an air permeability greater than zero would obviously have been present once the Tilton et al. and Thompson product is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977).

Rejection is maintained.

Response to Arguments

5. Applicant's arguments filed October 5, 2006, have been fully considered but they are not persuasive for the reasons set forth. Applicant argues that the Tilton reference teaches away from the use of a laminate construct. This argument is not persuasive because, as seen in all of the Tilton figures, the structure of Tilton is a laminate or composite made of different layers. Applicant also argues that Tilton does not use a scrim material. This argument is also not persuasive because Tilton specifically discloses a glass scrim material in paragraph [0041] and as seen in reference points 22, 24, and 26 of Figures 3 and 4 of the Tilton reference. Furthermore, because the scrim is on the outer surface of the liner, it would be breathable. In addition, it is the Examiner's position that the hydrophobic qualities of the scrim are inherent to the materials used to make up the scrim (e.g. glass fibers).

Allowable Subject Matter

6. Claim 13 is allowed.

7. Claims 16 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: no prior art was found to teach or suggest a watershield mountable on a vehicle door comprising a breathable face scrim, wherein the first layer is configured to be oriented in the direction of an outer panel of the vehicle door and a second layer of an open-cell polymeric foam, wherein the second layer is oriented in the direction of an inwardly facing member of the door panel. Also, no prior art

was found to teach or fairly suggest that the nonwoven scrim of the vehicle door watershield is formed as a polymeric apertured film or as a spunbond-meltblown-spunbond tri-laminate.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1771

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

UCR *Ula*

Ula Ruddeck
Ula C. Ruddeck
Primary Examiner
Tech Center 1700